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HOUSE BILL 331

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Mimi Stewart

AN ACT

RELATING TO GAME AND FISH; AMENDING A SECTION OF THE NMSA 1978
TO PROVIDE PENALTIES FOR HUNTING GUIDES OR OUTFITTERS WITHOUT
BEING REGISTERED WITH THE DEPARTMENT OF GAME AND FISH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 17-2-10 NMSA 1978 (being Laws 1931,
Chapter 117, Section 7, as amended by Laws 1997, Chapter 119,
Section 1 and also by Laws 1997, Chapter 224, Section 1) is
amended to read:

"17-2-10. VIOLATION OF GAME AND FISH LAWS OR
REGULATIONS-- PENALTIES. --

A. Any person violating any of the provisions of
Chapter 17 NMSA 1978 or any regulations adopted by the state
game commission that relate to the time, extent, means or
manner that game animals, birds or fish may be hunted, taken,

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1 captured, killed, possessed, sold, purchased or shipped is
2 guilty of a misdemeanor and upon conviction may be sentenced
3 to imprisonment in the county jail for a term not to exceed
4 six months. In addition, the person shall be sentenced to the
5 payment of a fine in accordance with the following schedule:

6 (1) for illegally taking, attempting to take,
7 killing, capturing or possessing of each deer, antelope,
8 javelina, bear or cougar during a closed season, a fine of
9 four hundred dollars (\$400);

10 (2) for illegally taking, attempting to take,
11 killing, capturing or possessing of each elk, bighorn sheep,
12 oryx, ibex or Barbary sheep, a fine of one thousand dollars
13 (\$1,000);

14 (3) for hunting big game without a proper and
15 valid license, lawfully procured, a fine of one hundred
16 dollars (\$100);

17 (4) for exceeding the bag limit of any big
18 game species, a fine of four hundred dollars (\$400);

19 (5) for attempting to exceed the bag limit of
20 any big game species by the hunting of any big game animal
21 after having tagged a similar big game species, a fine of two
22 hundred dollars (\$200);

23 (6) for signing a false statement to procure
24 a resident hunting or fishing license when the applicant is
25 residing in another state at the time of application for a

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1 license, a fine of four hundred dollars (\$400);

2 (7) for using a hunting or fishing license
3 issued to another person, a fine of one hundred dollars
4 (\$100);

5 (8) for a violation of Section 17-2-31 NMSA
6 1978, a fine of three hundred dollars (\$300); [and]

7 (9) for selling, offering for sale, offering
8 to purchase or purchasing any big game animal, unless
9 otherwise provided by Chapter 17 NMSA 1978, a fine of one
10 thousand dollars (\$1,000); and

11 (10) for violation of Section 17-2A-3 NMSA
12 1978, a fine of five hundred dollars (\$500).

13 B. A person convicted a second time for violating
14 any of the provisions of Chapter 17 NMSA 1978 or any
15 regulations adopted by the state game commission that relate
16 to the time, extent, means or manner that game animals, birds
17 or fish may be hunted, taken, captured, killed, possessed,
18 sold, purchased or shipped is guilty of a misdemeanor and upon
19 conviction may be sentenced to imprisonment in the county jail
20 for a term of not more than three hundred sixty-four days. In
21 addition, the person shall be sentenced to the payment of a
22 fine in accordance with the following schedule:

23 (1) for illegally taking, attempting to take,
24 killing, capturing or possessing of each deer, antelope,
25 javelina, bear or cougar during a closed season, a fine of six

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1 hundred dollars (\$600);

2 (2) for illegally taking, attempting to take,
3 killing, capturing or possessing of each elk, bighorn sheep,
4 oryx, [~~or~~] ibex or Barbary sheep, a fine of one thousand five
5 hundred dollars (\$1,500);

6 (3) for hunting big game without a proper and
7 valid license, lawfully procured, a fine of four hundred
8 dollars (\$400);

9 (4) for exceeding the bag limit of any big
10 game species, a fine of six hundred dollars (\$600);

11 (5) for attempting to exceed the bag limit of
12 any big game species by the hunting of any big game animal
13 after having tagged a similar big game species, a fine of six
14 hundred dollars (\$600);

15 (6) for signing a false statement to procure
16 a resident hunting or fishing license when the applicant is
17 residing in another state at the time of application for a
18 license, a fine of six hundred dollars (\$600);

19 (7) for using a hunting or fishing license
20 issued to another person, a fine of two hundred fifty dollars
21 (\$250);

22 (8) for a violation of Section 17-2-31 NMSA
23 1978, a fine of five hundred dollars (\$500); [~~and~~]

24 (9) for selling, offering for sale, offering
25 to purchase or purchasing any big game animal, unless

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1 otherwise provided by Chapter 17 NMSA 1978, a fine of one
2 thousand five hundred dollars (\$1,500); and
3 (10) for violation of Section 17-2A-3 NMSA
4 1978, a fine of one thousand dollars (\$1,000).

5 C. Notwithstanding the provisions of
6 Section 31-18-13 NMSA 1978, a person convicted a third or
7 subsequent time for violating any of the provisions of Chapter
8 17 NMSA 1978 or any regulations adopted by the state game
9 commission that relate to the time, extent, means or manner
10 that game animals, birds or fish may be hunted, taken,
11 captured, killed, possessed, sold, purchased or shipped is
12 guilty of a misdemeanor and upon conviction may be sentenced
13 to imprisonment in the county jail for a term of not less than
14 ninety days, which shall not be suspended or deferred, and not
15 more than three hundred sixty-four days. In addition, the
16 person shall be sentenced to the payment of a fine in
17 accordance with the following schedule:

18 (1) for illegally taking, attempting to take,
19 killing, capturing or possessing of each deer, antelope,
20 javelina, bear or cougar during a closed season, a fine of one
21 thousand two hundred dollars (\$1,200);

22 (2) for illegally taking, attempting to take,
23 killing, capturing or possessing of each elk, bighorn sheep,
24 oryx, ibex or Barbary sheep, a fine of three thousand dollars
25 (\$3,000);

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1 (3) for hunting big game without a proper and
2 valid license, lawfully procured, a fine of one thousand
3 dollars (\$1,000);

4 (4) for exceeding the bag limit of any big
5 game species, a fine of one thousand two hundred dollars
6 (\$1,200);

7 (5) for attempting to exceed the bag limit of
8 any big game species by the hunting of any big game animal
9 after having tagged a similar big game species, a fine of one
10 thousand dollars (\$1,000);

11 (6) for signing a false statement to procure
12 a resident hunting or fishing license when the applicant is
13 residing in another state at the time of application for a
14 license, a fine of one thousand two hundred dollars (\$1,200);

15 (7) for using a hunting or fishing license
16 issued to another person, a fine of one thousand dollars
17 (\$1,000);

18 (8) for a violation of Section 17-2-31 NMSA
19 1978, a fine of one thousand dollars (\$1,000); [and]

20 (9) for selling, offering for sale, offering
21 to purchase or purchasing any big game animal, unless
22 otherwise provided by Chapter 17 NMSA 1978, a fine of three
23 thousand dollars (\$3,000); and

24 (10) for violation of Section 17-2A-3 NMSA
25 1978, a fine of two thousand dollars (\$2,000).

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1 D. Any person who is convicted of a violation of
2 any regulations adopted by the state game commission that
3 relate to the time, extent, means or manner that game animals,
4 birds or fish may be hunted, taken, captured, killed,
5 possessed, sold, purchased or shipped or of a violation of any
6 of the provisions of Chapter 17 NMSA 1978, for which a
7 punishment is not set forth under this section, shall be fined
8 not less than [~~fifty dollars (\$50)~~] fifty dollars (\$50.00) or
9 more than five hundred dollars (\$500) or imprisoned not more
10 than six months or both.

11 E. The provisions of this section shall not be
12 interpreted to prevent, constrain or penalize a Native
13 American for engaging in activities for religious purposes, as
14 provided in Section 17-2-14 or 17-2-41 NMSA 1978.

15 F. The provisions of this section shall not apply
16 to a landowner or lessee, or employee of either of them, who
17 kills an animal on private land, in which they have an
18 ownership or leasehold interest, that is threatening human
19 life or damaging or destroying property, including crops;
20 provided, however, that the killing is reported to the
21 department of game and fish within twenty-four hours and
22 before the removal of the carcass of the animal killed; and
23 provided further that all actions authorized in this
24 subsection are carried out according to regulations of the
25 department. "

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 February 8, 1999
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8 Mr. Speaker:
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10 Your ENERGY AND NATURAL RESOURCES COMMITTEE, to
11 whom has been referred
12

13 HOUSE BILL 331
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15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

17 1. On page 1, line 11, after "FISH;" strike the
18 remainder of the line and strike lines 12 and 13 in their
19 entirety and insert in lieu thereof:
20

21 "PROVIDING THAT THE JAGUAR IS TO BE PROTECTED; PROVIDING FOR
22 CRIMINAL AND CIVIL PENALTIES; PROVIDING PENALTIES FOR
23 VIOLATION OF A CERTAIN SECTION OF THE NMSA 1978."
24

25 2. On page 1, between lines 15 and 16, insert a new
Section 1 to read:

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"Section 1. A new Section 17-2-4.1 NMSA 1978 is enacted to read:

"17-2-4.1. [NEW MATERIAL] JAGUAR TO BE PROTECTED. -- In the event the jaguar is de-listed as a federal endangered species, the department of game and fish shall prohibit the taking, possession and sale of jaguars or parts thereof.".

3. Renumber the succeeding section accordingly.

4. On page 3, line 10, strike "and".

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5. On page 3, between lines 10 and 11, insert a new paragraph to read:

"(10) for illegally taking, attempting to take, killing, capturing or possessing of each jaguar, a fine of one thousand dollars (\$1,000); and".

6. Renumber the succeeding paragraph accordingly.

7. On page 3, line 11, after "of" insert "Subsection A of".

8. On page 5, line 2, strike "and".

9. On page 5, between lines 2 and 3, insert a new paragraph to read:

"(10) for illegally taking, attempting to take, killing, capturing or possessing of each jaguar, a fine of one thousand five hundred dollars (\$1,500); and".

10. Renumber the succeeding paragraph accordingly.

11. On page 5, line 3, after "of" insert "Subsection A of".

12. On page 6, line 23, strike "and".

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13. On page 6, between lines 23 and 24, insert the following new paragraph to read:

"(10) for illegally taking, attempting to take, killing, capturing or possessing of each jaguar, a fine of three thousand dollars (\$3,000); and".

14. Renumber the succeeding paragraph accordingly.

15. On page 6, line 24, after "of" insert "Subsection A of".,

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

James Roger Madalena, Chairman

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Salazar

Absent: None

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HB 331

Page 15

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(Chief Clerk)

Date _____

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Luna

Absent: None

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FORTY- FOURTH LEGISLATURE
FIRST SESSION

February 25, 1999

HOUSE FLOOR AMENDMENT number _____ to HOUSE BILL 331, as amended

Amendment sponsored by Representative Mimi Stewart

1. Strike House Energy and Natural Resources Committee Amendments 5, 9 and 13.

2. On page 3, between lines 10 and 11, insert a new paragraph to read:

"(10) for illegally taking, attempting to take, killing, capturing or possessing of each jaguar, a fine of two thousand dollars (\$2,000); and".

3. On page 5, between lines 2 and 3, insert a new paragraph to read:

"(10) for illegally taking, attempting to take, killing, capturing or possessing of each jaguar, a fine of four

FORTY-FOURTH LEGISLATURE
FIRST SESSION

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HF1/HB 331

Page 17

thousand dollars (\$4,000); and".

4. On page 6, between lines 23 and 24, insert a new paragraph to read:

"(10) for illegally taking, attempting to take, killing, capturing or possessing of each jaguar, a fine of six thousand dollars (\$6,000); and".

5. On page 7, after line 25, insert the following new section:

"Section 3. Section 17-2-26 NMSA 1978 (being Laws 1912, Chapter 85, Section 45, as amended) is amended to read:

"17-2-26. CIVIL LIABILITY. --

A. The director of the department of game and fish, or any other officer charged with enforcement of the laws relating to game and fish if so directed by the director, may bring a civil action in the name of the state against any person unlawfully wounding or killing, or unlawfully in possession of, any game quadruped, bird or fish, or part thereof, and recover judgment for the following minimum sums as damage for the taking, killing or injuring:

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FORTY- FOURTH LEGISLATURE
FIRST SESSION

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HF1/HB 331

Page 18

for each elk-----	\$ 500. 00
for each deer-----	250. 00
for each antelope-----	250. 00
for each mountain sheep-----	1, 000. 00
for each Barbary sheep-----	250. 00
for each black bear-----	500. 00
for each cougar-----	500. 00
for each bison-----	600. 00
for each ibex-----	1, 000. 00
for each oryx-----	1, 000. 00
for each javelina-----	100. 00
for each beaver-----	65. 00
for each bird-----	20. 00
for each fish-----	5. 00
for each endangered species-----	500. 00
for each raptor-----	200. 00
for each turkey-----	150. 00
<u>for each jaguar-----</u>	<u>2, 000. 00.</u>

B. No verdict or judgment recovered by the state in an action shall be for less than the sum fixed in this section. The action for damages may be joined with an action for possession, and recovery may be had for the possession as well as the damages.

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FORTY- FOURTH LEGISLATURE
FIRST SESSION

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HF1/HB 331

Page 19

C. The pendency or determination of an action for damages or payment of a judgment, or the pendency or determination of a criminal prosecution for the same taking, wounding, killing or possession, is not a bar to the other, nor does either affect the right of seizure under any other provision of the laws relating to game and fish.

D. The provisions of this section shall not be interpreted to prevent, constrain or penalize a Native American for engaging in activities for religious purposes, as provided in Section 17-2-14 or 17-2-41 NMSA 1978.

E. The provisions of this section shall not apply to a landowner or lessee, or employee of either of them, who kills an animal on private land, in which they have an ownership or leasehold interest, that is threatening human life or damaging or destroying property, including crops; provided, however, that the killing is reported to the department of game and fish within twenty-four hours and before the removal of the carcass of the animal killed; and provided further that all actions authorized in this subsection are carried out according to regulations of the department. "".

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FORTY- FOURTH LEGISLATURE
FIRST SESSION

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HF1 / HB 331

Page 20

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